

shall (to the extent that they relate to functions described in paragraph (1)(B)) continue in effect according to their terms until modified, terminated, suspended, set aside, or repealed by such Commissioner, except that any collective bargaining agreement shall remain in effect until the date of termination specified in such agreement.

“(c) CONTINUATION OF PROCEEDINGS.—The provisions of this title (including the amendments made thereby) shall not affect any proceeding pending before the Secretary of Health and Human Services immediately before March 31, 1995, with respect to functions vested (by reason of this title, the amendments made thereby, and regulations prescribed thereunder) in the Commissioner of Social Security, except that such proceedings, to the extent that such proceedings relate to such functions, shall continue before such Commissioner. Orders shall be issued under any such proceeding, appeals taken therefrom, and payments shall be made pursuant to such orders, in like manner as if this title had not been enacted, and orders issued in any such proceeding shall continue in effect until modified, terminated, superseded, or repealed by such Commissioner, by a court of competent jurisdiction, or by operation of law.

“(d) CONTINUATION OF SUITS.—Except as provided in this subsection—

“(1) the provisions of this title shall not affect suits commenced before March 31, 1995; and

“(2) in all such suits proceedings shall be had, appeals taken, and judgments rendered, in the same manner and effect as if this title had not been enacted.

No cause of action, and no suit, action, or other proceeding commenced by or against any officer in such officer's official capacity as an officer of the Department of Health and Human Services, shall abate by reason of the enactment of this title. In any suit, action, or other proceeding pending immediately before March 31, 1995, the court or hearing officer may at any time, on the motion of the court or hearing officer or that of a party, enter an order which will give effect to the provisions of this subsection (including, where appropriate, an order for substitution of parties).

“(e) CONTINUATION OF PENALTIES.—This title shall not have the effect of releasing or extinguishing any civil or criminal prosecution, penalty, forfeiture, or liability incurred as a result of any function which (by reason of this title, the amendments made thereby, and regulations prescribed thereunder) is vested in the Commissioner of Social Security.

“(f) JUDICIAL REVIEW.—Orders and actions of the Commissioner of Social Security in the exercise of functions vested in such Commissioner under this title and the amendments made thereby (other than functions performed pursuant to 105(a)(2) [set out above]) shall be subject to judicial review to the same extent and in the same manner as if such orders had been made and such actions had been taken by the Secretary of Health and Human Services in the exercise of such functions immediately before March 31, 1995. Any statutory requirements relating to notice, hearings, action upon the record, or administrative review that apply to any function so vested in such Commissioner shall continue to apply to the exercise of such function by such Commissioner.

“(g) EXERCISE OF FUNCTIONS.—In the exercise of the functions vested in the Commissioner of Social Security under this title, the amendments made thereby, and regulations prescribed thereunder, such Commissioner shall have the same authority as that vested in the Secretary of Health and Human Services with respect to the exercise of such functions immediately preceding the vesting of such functions in such Commissioner, and actions of such Commissioner shall have the same force and effect as when exercised by such Secretary.”

#### RULES OF CONSTRUCTION

Section 109 of title I of Pub. L. 103-296 provided that:

“(a) REFERENCES TO THE DEPARTMENT OF HEALTH AND HUMAN SERVICES.—Whenever any reference is made in

any provision of law (other than this title [see Tables for classification] or a provision of law amended by this title), regulation, rule, record, or document to the Department of Health and Human Services with respect to such Department's functions under the old-age, survivors, and disability insurance program under title II of the Social Security Act [subchapter II of this chapter] or the supplemental security income program under title XVI of such Act [subchapter XVI of this chapter] or other functions performed by the Social Security Administration pursuant to section 105(a)(2) of this Act [set out above], such reference shall be considered a reference to the Social Security Administration.

“(b) REFERENCES TO THE SECRETARY OF HEALTH AND HUMAN SERVICES.—Whenever any reference is made in any provision of law (other than this title or a provision of law amended by this title), regulation, rule, record, or document to the Secretary of Health and Human Services with respect to such Secretary's functions under the old-age, survivors, and disability insurance program under title II of the Social Security Act or the supplemental security income program under title XVI of such Act or other functions performed by the Commissioner of Social Security pursuant to section 105(a)(2) of this Act, such reference shall be considered a reference to the Commissioner of Social Security.

“(c) REFERENCES TO OTHER OFFICERS AND EMPLOYEES.—Whenever any reference is made in any provision of law (other than this title or a provision of law amended by this title), regulation, rule, record, or document to any other officer or employee of the Department of Health and Human Services with respect to such officer or employee's functions under the old-age, survivors, and disability insurance program under title II of the Social Security Act or the supplemental security income program under title XVI of such Act or other functions performed by the officer or employee of the Social Security Administration pursuant to section 105(a)(2) of this Act, such reference shall be considered a reference to the appropriate officer or employee of the Social Security Administration.”

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 902 of this title.

#### § 901a. Repealed. Aug. 28, 1950, ch. 809, title IV, § 401(b), 64 Stat. 558

Section, act Aug. 10, 1939, ch. 666, title IX, § 908, 53 Stat. 1402, placed Social Security Board under direction and supervision of Federal Security Administrator.

#### § 902. Commissioner; Deputy Commissioner; other officers

##### (a) Commissioner of Social Security

(1) There shall be in the Administration a Commissioner of Social Security (in this subchapter referred to as the “Commissioner”) who shall be appointed by the President, by and with the advice and consent of the Senate.

(2) The Commissioner shall be compensated at the rate provided for level I of the Executive Schedule.

(3) The Commissioner shall be appointed for a term of 6 years, except that the initial term of office for Commissioner shall terminate January 19, 2001. In any case in which a successor does not take office at the end of a Commissioner's term of office, such Commissioner may continue in office until the entry upon office of such a successor. A Commissioner appointed to a term of office after the commencement of such term may serve under such appointment only for the remainder of such term. An individual serving in the office of Commissioner may be removed

from office only pursuant to a finding by the President of neglect of duty or malfeasance in office.

(4) The Commissioner shall be responsible for the exercise of all powers and the discharge of all duties of the Administration, and shall have authority and control over all personnel and activities thereof.

(5) The Commissioner may prescribe such rules and regulations as the Commissioner determines necessary or appropriate to carry out the functions of the Administration. The regulations prescribed by the Commissioner shall be subject to the rulemaking procedures established under section 553 of title 5.

(6) The Commissioner may establish, alter, consolidate, or discontinue such organizational units or components within the Administration as the Commissioner considers necessary or appropriate, except that this paragraph shall not apply with respect to any unit, component, or provision provided for by this chapter.

(7) The Commissioner may assign duties, and delegate, or authorize successive redelegations of, authority to act and to render decisions, to such officers and employees of the Administration as the Commissioner may find necessary. Within the limitations of such delegations, redelegations, or assignments, all official acts and decisions of such officers and employees shall have the same force and effect as though performed or rendered by the Commissioner.

(8) The Commissioner and the Secretary of Health and Human Services (in this subchapter referred to as the "Secretary") shall consult, on an ongoing basis, to ensure—

(A) the coordination of the programs administered by the Commissioner, as described in section 901 of this title, with the programs administered by the Secretary under subchapters XVIII and XIX of this chapter; and

(B) that adequate information concerning benefits under such subchapters XVIII and XIX of this chapter is available to the public.

**(b) Deputy Commissioner of Social Security**

(1) There shall be in the Administration a Deputy Commissioner of Social Security (in this subchapter referred to as the "Deputy Commissioner") who shall be appointed by the President, by and with the advice and consent of the Senate.

(2) The Deputy Commissioner shall be appointed for a term of 6 years, except that the initial term of office for the Deputy Commissioner shall terminate January 19, 2001. In any case in which a successor does not take office at the end of a Deputy Commissioner's term of office, such Deputy Commissioner may continue in office until the entry upon office of such a successor. A Deputy Commissioner appointed to a term of office after the commencement of such term may serve under such appointment only for the remainder of such term.

(3) The Deputy Commissioner shall be compensated at the rate provided for level II of the Executive Schedule.

(4) The Deputy Commissioner shall perform such duties and exercise such powers as the Commissioner shall from time to time assign or delegate. The Deputy Commissioner shall be

Acting Commissioner of the Administration during the absence or disability of the Commissioner and, unless the President designates another officer of the Government as Acting Commissioner, in the event of a vacancy in the office of the Commissioner.

**(c) Chief Financial Officer**

There shall be in the Administration a Chief Financial Officer appointed by the Commissioner in accordance with section 901(a)(2) of title 31.

**(d) Inspector General**

There shall be in the Administration an Inspector General appointed by the President, by and with the advice and consent of the Senate, in accordance with section 3(a) of the Inspector General Act of 1978.

(Aug. 14, 1935, ch. 531, title VII, § 702, 49 Stat. 636; Aug. 28, 1950, ch. 809, title III, pt. 6, § 361(c), (d), 64 Stat. 558; July 18, 1984, Pub. L. 98-369, div. B, title VI, § 2663(j)(2)(C)(i), (l)(1), 98 Stat. 1170, 1171; Aug. 15, 1994, Pub. L. 103-296, title I, § 102, 108 Stat. 1465.)

REFERENCES IN TEXT

Levels I and II of the Executive Schedule, referred to in subsecs. (a)(2) and (b)(3), are set out in sections 5312 and 5313, respectively, of Title 5, Government Organization and Employees.

Section 3(a) of the Inspector General Act of 1978, referred to in subsec. (d), is section 3(a) of Pub. L. 95-452, which is set out in the Appendix to Title 5.

AMENDMENTS

1994—Pub. L. 103-296 amended section generally. Prior to amendment, section read as follows: "The Secretary shall perform the duties imposed upon him by this chapter and shall also have the duty of studying and making recommendations as to the most effective methods of providing economic security through social insurance, and as to legislation and matters of administrative policy concerning old-age pensions, unemployment compensation, accident compensation, and related subjects."

1984—Pub. L. 98-369, § 2663(l)(1), substituted "Secretary" for "Administrator".

Pub. L. 98-369, § 2663(j)(2)(C)(i), which directed the substitution of "Health and Human Services" for "Health, Education, and Welfare", could not be executed because "Health, Education, and Welfare" did not appear in text.

1950—Act Aug. 28, 1950, substituted "Administrator" for "Board" and "him" for "it".

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-296 effective Mar. 31, 1995, see section 110(a) of Pub. L. 103-296, set out as a note under section 401 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-369 effective July 18, 1984, but not to be construed as changing or affecting any right, liability, status, or interpretation which existed (under the provisions of law involved) before that date, see section 2664(b) of Pub. L. 98-369, set out as a note under section 401 of this title.

DEMONSTRATION PROJECTS RELATING TO ACCOUNTABILITY FOR TELEPHONE SERVICE CENTER COMMUNICATIONS

Pub. L. 101-508, title V, § 5108, Nov. 5, 1990, 104 Stat. 1388-269, directed Secretary of Health and Human Services to develop and carry out demonstration projects designed to implement certain accountability proce-

dures in not fewer than 3 telephone service centers operated by the Social Security Administration, provided that such projects commence not later than 180 days after Nov. 5, 1990, and remain in operation for not less than 1 year and not more than 3 years, and directed Secretary to submit to Congress a written report on the progress of the demonstration projects not later than 90 days after the termination of the project.

#### TELEPHONE ACCESS TO SOCIAL SECURITY ADMINISTRATION

Section 302 of Pub. L. 103-296 directed Comptroller General of the United States to submit to Congress, not later than Jan. 31, 1996, report and study of telephone access to local offices of the Social Security Administration, based on independent assessment of Social Security Administration's use of innovative technology (including attendant call and voice mail) to increase public telephone access to local offices of the Administration.

Pub. L. 101-508, title V, §5110, Nov. 5, 1990, 104 Stat. 1388-272, provided that:

“(a) REQUIRED MINIMUM LEVEL OF ACCESS TO LOCAL OFFICES.—In addition to such other access by telephone to offices of the Social Security Administration as the Secretary of Health and Human Services may consider appropriate, the Secretary shall maintain access by telephone to local offices of the Social Security Administration at the level of access generally available as of September 30, 1989.

“(b) TELEPHONE LISTINGS.—The Secretary shall make such requests of local telephone utilities in the United States as are necessary to ensure that the listings subsequently maintained and published by such utilities for each locality include the address and telephone number for each local office of the Social Security Administration to which direct telephone access is maintained under subsection (a) in such locality. Such listing may also include information concerning the availability of a toll-free number which may be called for general information.

“(c) REPORT BY SECRETARY.—Not later than January 1, 1993, the Secretary shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report which—

“(1) assesses the impact of the requirements established by this section on the Social Security Administration's allocation of resources, workload levels, and service to the public, and

“(2) presents a plan for using new, innovative technologies to enhance access to the Social Security Administration, including access to local offices.

“(d) GAO REPORT.—The Comptroller General of the United States shall review the level of telephone access by the public to the local offices of the Social Security Administration. The Comptroller General shall file an interim report with the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate describing such level of telephone access not later than 120 days after the date of the enactment of this Act [Nov. 5, 1990] and shall file a final report with such Committees describing such level of access not later than 210 days after such date.

“(e) EFFECTIVE DATE.—The Secretary of Health and Human Services shall meet the requirements of subsections (a) and (b) as soon as possible after the date of the enactment of this Act but not later [than] 180 days after such date.”

#### REPORT REGARDING NOTICES IN LANGUAGES OTHER THAN ENGLISH

Pub. L. 101-239, title X, §10306(b), Dec. 19, 1989, 103 Stat. 2484, directed Secretary of Health and Human Resources, not later than Jan. 1, 1991, to submit a report to Congress relating to procedures of Social Security Administration for issuing notices in languages other than English.

#### STUDY CONCERNING ESTABLISHMENT OF SOCIAL SECURITY ADMINISTRATION AS AN INDEPENDENT AGENCY

Pub. L. 98-21, title III, §338, Apr. 20, 1983, 97 Stat. 132, as amended by Pub. L. 98-369, div. B, title VI, §2662(h)(1), July 18, 1984, 98 Stat. 1160, established, under authority of Committee on Ways and Means of the House of Representatives and Committee on Finance of the Senate, a Joint Study Panel on the Social Security Administration to undertake a study of removing Social Security Administration from Department of Health and Human Services and establishing it as an independent agency in the executive branch with its own independent administrative structure, including possibility of such a structure headed by a board appointed by the President, by and with the advice and consent of the Senate, and to submit, not later than Apr. 1, 1984, a report of the findings of the study, and provided that the Panel would expire 30 days after the date of the submission of the report.

#### EARNINGS SHARING IMPLEMENTATION REPORT

Pub. L. 98-21, title III, §343, Apr. 20, 1983, 97 Stat. 136, directed Secretary of Health and Human Services to develop, in consultation with Committee on Finance of the Senate and Committee on Ways and Means of the House of Representatives, proposals for earnings sharing legislation (i.e., proposals that combined earnings of a husband and wife during period of their marriage be divided equally and shared between them for social security benefit purposes) and report such proposals to such committees not later than July 1, 1984.

#### UNIVERSAL COVERAGE OF SOCIAL SECURITY PROGRAMS; STUDY AND REPORT TO PRESIDENT AND CONGRESS RESPECTING SCOPE, ALTERNATIVES, ETC.; CONSULTATION BY SECRETARY

Pub. L. 95-216, title III, §311, Dec. 20, 1977, 91 Stat. 1531, as amended by 1978 Reorg. Plan No. 2, §102, eff. Jan. 1, 1979, 43 F.R. 36037, 92 Stat. 3783, directed Secretary of Health, Education, and Welfare to undertake as soon as possible after Dec. 20, 1977, a thorough study with respect to extent of coverage under old-age, survivors, and disability insurance programs and under programs established by subchapter XVIII of this chapter and submit a report on findings of such study not later than 2 years after Dec. 20, 1977.

#### PROPOSALS FOR ELIMINATION OF DEPENDENCY AND SEX DISCRIMINATION UNDER SOCIAL SECURITY PROGRAM; STUDY AND REPORT TO CONGRESS

Pub. L. 95-216, title III, §341, Dec. 20, 1977, 91 Stat. 1548, directed Secretary of Health, Education, and Welfare, in consultation with the Task Force on Sex Discrimination, to make a detailed study of proposals to eliminate dependency as a factor in the determination of entitlement to spouse's benefits under the program established under subchapter II of this chapter and of proposals to bring about equal treatment for men and women in any and all respects under such program and submit a report to Congress within 6 months of Dec. 20, 1977.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 904 of this title.

### § 903. Social Security Advisory Board

#### (a) Establishment of Board

There shall be established a Social Security Advisory Board (in this section referred to as the “Board”).

#### (b) Functions of Board

On and after the date the Commissioner takes office, the Board shall advise the Commissioner on policies related to the old-age, survivors, and disability insurance program under subchapter